Agenda Date: 3/21/02
Agenda Item: 2C

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

ENERGY

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL TO IMPLEMENT CENTRAL HEATER AND CENTRAL AIR CONDITIONING REPLACEMENT PROGRAMS	)))))	DECISION AND ORDER DOCKET NO. EO98030146

(Service List Attached)

BY THE BOARD:

On February 2, 1998, Public Service Electric and Gas Company ("PSE&G" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board"): 1) for approval to offer two new competitive services, a Central Heater Replacement Program and a Central Air Conditioning Replacement Program ("the Proposed Competitive Programs"); and 2) requesting that all attachments to the letter notice be treated as proprietary and confidential, and not subject to public disclosure. PSE&G sought confidential treatment for the service description of the Proposed Competitive Programs and projected financial information including pricing, costs, average costs and estimated revenues for a "typical" replacement and installation of a Central Heating unit and a "typical" replacement and installation of a Central Air Conditioning unit.[1] The Company further asserted that its calculation of the fully allocated hourly floor rate should be kept confidential. The Company filed unredacted confidential attachments with the Board, on June 18, 1998. The Company withdrew its request for confidential treatment of these exhibits by letter dated November 12, 1998.

On June 23, 1998, the Division of the Ratepayer Advocate ("RPA") submitted comments in response to the Company's filing. The RPA's filing included a copy of its June 18, 1998 comments submitted in Docket No. ET97070476 in response to a prior PSE&G appliance service proposal. In its comments, the RPA indicated that action on this matter should await the Board's promulgation of strict standards of fair competition, as part of the anticipated restructuring of the electric industry.

By letter dated July 15, 1998, the Company responded to additional requests from Staff regarding the Proposed Competitive Programs. As part of its response, PSE&G indicated that the Company proposed to offer both the Central Heater and Central Air Conditioning Replacement Programs within and outside its existing service territory.

On November 13, 1998, Staff issued additional discovery requests, which were subsequently

[1] More detail on the average cost is provided under "Company Proposal".

responded to by PSE&G on November 19, 1998. As part of its responses, PSE&G provided a revised calculation of the fully allocated hourly rate, to a new rate of $152.76, including pro-forma workpapers.

PSE&G's filing was made before EDECA was enacted. Staff asked the Company to re-file this matter to address the requirements of EDECA, N.J.S.A. 48:3-58, which, among other things requires a Board finding that the proposed price to be charged exceeds the fully allocated costs of providing the service, and that the provision of such service will not impact the utility's ability to offer safe, adequate and proper service for its non-competitive services. On June 21, 2001, PSE&G filed a supplement to its original filing in this docket to address the requirements of EDECA. Included in the supplemental filing were the updated financial statements, which supported the fully allocated hourly floor rate. The updated financial statements show that the expected retail prices charged to customers will not only recover the costs included in the calculation of the proposed $152.76 fully allocated hourly floor rate, but will also fully recover solicitation and processing costs and produce a profit. By letter dated July 3, 2001, PSE&G submitted a further supplement to its tariff filing for appliance service in Docket No. ET99040268. The tariff supplement includes the fully allocated hourly floor rate of $152.76 plus the cost of materials for the individual jobs and the incremental costs to the program.

The RPA was provided with copies of PSE&G's supplemental post-EDECA filings and was afforded an opportunity to submit additional comments. On September 10, 2001, the RPA filed supplemental comments on this matter. The comments recommend that the Board deny the Company's request to expand its existing appliance service programs. The RPA proposes that PSE&G should separate these services from the utility and offer them only through an unregulated affiliate of its parent corporation. The RPA argues that this would help ensure that the customers are treated fairly when they contact the utility about competitive services and that other companies offering these services do not face the unfair competition that could occur if utility employees were to refer customers seeking these competitive services to PSE&G's appliance service business. The RPA further asserts that if the Board determines to allow PSE&G to offer these new services, it should do so on an interim basis until the competitive services audit proceeding in Docket No. EA00040235 is resolved. The RPA also asserts that a ratemaking mechanism should be developed to capture any increases in revenues in between base rate cases, since the revenues for appliance competitive services are above the line for ratemaking purposes.

Company Proposal

PSE&G is proposing to offer both a turn-key Central Heater Replacement Program and a Central Air Conditioning Replacement Program by selling and installing a range of central heaters and central air conditioners in a variety of sizes and energy efficiencies within its service territory and statewide. The Company intends to utilize its gas distribution employee workforce for the installation of central heating and central air conditioning units, plus removal and disposal of the replaced units. The retail price of each job under each of the programs will vary based upon the price for a particular size unit, and efficiency and installation costs. Thus, the Company has not proposed a specific retail price for each service, but rather will calculate a retail flat price upon a home assessment for proper unit sizing, efficiency and installation requirements based on the average time expected to complete the job as well as the unit selected. Customers will be billed this retail flat price.

The Company estimates that the average retail price to be charged to customers under the Central Heater Replacement Program will be approximately $2,600 for a typical 100,000 BTU, 80% efficiency furnace. The Company further indicates that this retail price will recover an estimated average cost of $840 for materials, including the cost of the unit, and the expected cost of labor with two employees working for four hours at the fully allocated hourly floor rate of $152.76 plus taxes. The Company notes that its estimated retail price also includes recovery of incremental solicitation and processing costs plus taxes. Travel time is included in the floor price and the retail price. Pro-forma statements indicate that the retail prices will be set high enough above the floor to include a profit.

The Company estimates that the average retail price to be charged to customers under the Central Air Conditioning Replacement Program will be approximately $2,800 for a typical 3 1/2 ton 12 Seasonal Energy Efficiency Rating ("SEER") unit. The Company further indicates that this retail price will recover an estimated average cost of $1,150 for materials, including the cost of the unit, and the expected cost of labor for two employees working for four hours at the fully allocated hourly floor rate of $152.76 plus taxes. The Company notes that the estimated retail price also includes recovery of incremental solicitation and processing costs plus taxes. Travel time is included in the floor price and the retail price. Pro-forma statements indicated that the retail prices will be set high enough above the floor price to include a profit.

Under the Company's Proposed Competitive Programs, consistent with other Board approved PSE&G competitive appliance programs, the customer will also have the option of two payment plans, which includes either equal monthly payments or one full payment.

As part of the original February 1998 filing, the Company included a fully loaded hourly labor rate of $125.76, which was originally calculated in 1992 and which, in Staff's opinion, was outdated. Accordingly, as part of its discovery requests, Staff requested that the Company provide an update to the fully allocated hourly rate calculation and workpapers. By letter dated November 19, 1998, the Company recalculated the fully allocated hourly floor rate including all existing and new union, non-union, management, and non-management personnel as requested by Staff. Using a more refined fully embedded cost allocation methodology, described in more detail below, the fully allocated hourly rate increased from $125.76 to $152.76. The retail rates proposed to be charged to customers included a profit margin. Further, on June 21, 2001, in response to an additional Staff request that the Company revise its filing to comply with the requirements of EDECA,[1] the Company provided a revised fully allocated hourly floor rate analysis for December 31, 2000, supporting an hourly floor rate of $152.76. The hourly floor rate of $152.76 does not include a profit margin. Under the revised filings, a profit margin was, however, included in the expected retail rates to be charged to customers. Copies of the revised filing were also provided to the RPA.

In its June 21, 2001 submission, the Company asserted that, consistent with EDECA, its fully allocated hourly floor rate of $152.76 will not be less than the fully allocated cost of providing the Proposed Competitive Programs and will not be subsidized by the Company's regulated customer services. The Company, as part of its filing, provided the supporting calculations and rational for the basis of the fully allocated hourly floor rate of $152.76. In its June 21, 2001 supplemental filing, PSE&G indicates that the fully allocated hourly floor rate includes its actual annualized costs for equipment, vehicles, labor, related fringe benefits and overheads, and administration utilized, and all other assets utilized and costs incurred, directly or indirectly, including carrying costs, of providing such competitive services. Included were costs for technical, clerical and management employees, as well as all embedded and incremental costs for all personnel used in the rendering of its competitive appliance services. The workpapers supporting the $152.76 further include such costs as training, uncollectibles, warranties, customer service, bills sent in error, small

[1] Pursuant to N.J.S.A. 48:3-58(d)(2) the price that a gas utility charges for the provision of a competitive service shall not be less than the fully allocated cost of providing such service, as determined by the Board.

tools/consumables, depreciation, carrying charges and other miscellaneous costs, plus the full cost of labor, including travel time. The updated hourly labor rate of $152.76 also includes the impact of changes to Post Employment Benefits other than Pensions ("OPEB").

In addition, as part of the May 29, 2001 discovery responses and the June 21, 2001 supplemental filing, the Company also submitted a revised projected financial analysis, by including a three-year pro-forma income statement analysis applying the $152.76 fully allocated hourly floor rate. The pro-forma statements of expected earnings show that the contribution to earnings from the Proposed Competitive Programs will continue to increase for the first three fiscal years of operation[3]. The pro-forma statements of earnings indicate that the expected retail prices charged to customers will not only recover the costs included in the calculation of the proposed fully allocated hourly floor rate but will also fully recover any incremental processing and solicitation costs plus taxes, as well as a profit margin. The Company further asserted in its discovery responses that the installation work under the Proposed Competitive Programs is similar to the Company's existing appliance repair work and is simply a natural extension of PSE&G's core competitive service business.

The Company indicates that the pro-forma statements of earnings are based upon estimates for material costs derived from the Company's interviews with technicians and field supervisors who have installation experience and with equipment suppliers. Under either Proposed Competitive Program, PSE&G assumes that two employees will each take four hours to complete the job. In its pro-forma statement, PSE&G prices these expected labor hours at the fully allocated hourly floor rate of $152.76. PSE&G's revenue projections were based upon expected number of units to be installed, the average life of the equipment and an average expected retail price of $2600 or $2800 for the Central Heater and Central Air Conditioning Replacement Programs respectively.

The Company asserts, in a written response to Staff's discovery requests dated November 19, 1998, that the replacement of central heating and central air conditioning units does not typically entail work that requires the services of a licensed electrical contractor due to the exemptions included in the Electrical Contractors Licensing Act of 1962, as amended, N.J.S.A. 45:5A-1, et seq., 45:5A-18, Exempt Work or Construction. PSE&G further asserts that these programs do not typically constitute plumbing work as defined in The State Plumbing License Law of 1968, N.J.S.A. 45:14C-2(g), and that there is no legal requirement for it to file with the Board of Electrical Contractors or the Board of Master Plumbers for the granting of any licenses.

PSE&G will utilize its own gas distribution workforce to install and replace the central heaters and air conditioners. On August 21, 2001, PSE&G filed an affidavit by Ralph Izzo certifying that all PSE&G employees performing the maintenance and repair services under PSE&G's tariff for appliance service are employees of that part of the gas utility primarily responsible for performing gas service operations. Moreover, PSE&G, as part of its February 2, 1998 letter filing, provided a description of the accounts used in recording cost information for appliance service. Uniform System Account G879.000, Customer Installation Expense is used to record costs associated with "the cost of labor, materials used and expenses incurred in work on customer premises other than expenses includible in account 878, Meter and House Regulator Expenses, including the cost of servicing customer-owned appliances when the cost of such work is borne by the utility." The remaining accounts identified include EG903, Customer Record and Collection Expenses and sub-account 903.510, Customer Account Department Salaries, Supplies and Expense, which include the "cost of labor, materials used and expenses incurred in work on customer applications, contracts, orders, credit investigations, billing and accounting, collections and complaints, and which appear to represent general and administrative accounts where joint service costs are

[3] The first year commences with the first day of Board approval of this matter.

recorded. The same is true for the remaining accounts, EG905 Miscellaneous Customer Account Expenses, and sub-account EG905.100 Miscellaneous Commercial Salaries, Supplies and Expenses, and Account EG907 Supervision-Customer Service and Informational Expenses and sub-accounts 907.100 and 907.200, General Supervision, which include costs of labor and expenses incurred in the general direction and supervision of customer service activities. The actual service costs for the repair of customer appliances are recorded in account G879.000.

PSE&G may find it necessary to hire new employees to perform the installations. This decision will not be made until these new services become available and demand becomes known. Based upon current projections, if PSE&G hires additional employees, it will do so at existing labor rates.

The Company, as part of its June 21, 2001 and July 3, 2001 supplemental filings, also submitted proposed tariff sheets reflecting the fully allocated hourly floor rate of $152.76, as discussed above, and a description of the retail prices to be charged to customers for the Proposed Competitive Programs. The proposed tariff sheets reflect the fully allocated hourly floor price rate of $152.76 plus the cost of materials for typical individual jobs and the incremental costs to the program such as solicitation and processing costs and taxes. The proposed tariff also includes a description of all its appliance service offerings and the Proposed Competitive Program services and any coverage limits, which in the case of the Proposed Competitive Programs there are none, according to the Company.

RPA Comments

On June 23, 1998, the RPA submitted comments regarding this matter. As part of those comments, the RPA also attached a copy of its June 18, 1998 comments that had previously been submitted in Docket No. ET97070476.[4] The RPA argued in its comments that the timing to approve new competitive services was inappropriate, since the Board, at the time, was engaged in a comprehensive review of how to restructure the electric industry and make it more competitive, while maintaining a level playing field for utilities and their competitors. The RPA asserted that until the Board identified strict standards of fair competition, as part of restructuring the electric industry, PSE&G should not be permitted to expand its activities in competitive service areas and should simply maintain current offerings which have prior Board approval. In the alternative, however, if the Board were to approve PSE&G's new services, the RPA asked that the Board direct PSE&G to apply the projected revenues received through the offering of the Proposed Competitive Programs to reduce stranded cost impacts on the Company's ratepayers.

The RPA was provided with copies of PSE&G's supplemental post-EDECA filings and was afforded an opportunity to submit additional comments. On September 10, 2001, the RPA filed additional comments with the Board. The RPA opposes the request to expand the existing programs to add new competitive services and to offer the appliance service programs outside PSE&G's service territory. The RPA asserts that PSE&G should separate these services from the utility and offer them only through an unregulated affiliate of its parent corporation. The RPA argues that this would help ensure that the customers are treated fairly when they contact the utility about competitive services and that other companies offering these services do not face the unfair competition that could occur if PSE&G were to use its utility employees to refer customers seeking competitive services to its appliance service business. The RPA further asserts that spinning off these services would provide a solution to the problem of ratemaking for competitive service revenues. Although the RPA acknowledges that EDECA permits PSE&G to continue to offer existing services through

[4] In the Matter of the Petition of Public Service Electric and Gas Company Proposing to Offer Residential Expanded Electric Appliance Replacement Parts Service Contract and Automatic Water Heater Replacement Offering. Docket No. ET97070476.

the utility as a "related competitive business segment" of the utility, the RPA asserts that EDECA does not require the Board to continue to treat competitive services as part of the utility.

The RPA also raises certain concerns regarding PSE&G's compliance with the Affiliate Relationship and Fair Competition Standards, which issues were being addressed in the competitive services audit proceeding in Docket No. EA00040235. The RPA was given a copy of the consultant's draft report prepared in the audit. This report is still under review at the Board. The RPA also asserts, that although PSE&G has stated that it intends to comply with all consultant's recommendations in the audit, any violation of the rules should place a heavy burden of proof on PSE&G to justify its actions before being permitted to expand these services. The RPA urges the Board to deny PSE&G's request to expand its existing appliance service programs at this time.

If the Board determines to allow PSE&G to offer these new services, the RPA asserts that it should do so on an interim basis until the competitive services audit proceeding in Docket No. EA00040235 is resolved. Moreover, the RPA asserts that historically, the expenses and revenues for these programs have been above the line items, whereby the utility's ratepayers receive the benefit of any profits from these services in setting the revenue requirements for the utility in a base rate case. The RPA recommends that a ratemaking mechanism be developed to capture increases in revenues for the services in between rate cases. The RPA argues that all these revenues must inure to the ratepayers' benefit, since the customers are paying to fund the utility employees and assets that are used to provide appliance repair and replacement services.

Discussion and Findings

Notwithstanding the fact that this matter was filed prior to the enactment of EDECA, in light of the subsequent enactment of the Act, the focus of the Board's review must be to ensure that the proposed competitive service offerings comply with the requirements of EDECA. EDECA provides certain specific criteria, which the Board must determine are met prior to permitting electric or gas utilities to provide competitive services. Among other provisions of the Act, N.J.S.A. 48:3-58(b)(3) permits a gas public utility, subject to Board approval, to provide competitive services that have been offered by any electric or gas public utility since prior to January 1, 1993, or that have been approved by the Board prior to the effective date of the Act to be offered by any electric or gas public utility.

N.J.S.A. 48:3-58(b)(4) also permits a gas public utility to provide, subject to Board approval, services that are substantially similar to competitive services that are permitted under paragraph (3) of the subsection.

The Board's review indicates that PSE&G's proposed new Central Heater Replacement and Central Air Conditioning Replacement Programs are comparable to service appliance replacement parts services provided by New Jersey Natural Gas Company for the repair of central air conditioning units and Elizabethtown Gas Company for the repair of house heaters prior to the effective date of the Act. In addition, the proposed new programs appear to be comparable to the replacement of Central Heater and Central Air Conditioning services offered by other non-utility vendors. PSE&G already offers a replacement parts service program for water heaters, which was approved prior to EDECA on November 23, 1998 in Docket No. ET97070476. PSE&G has also been providing appliance repair on Central House Heating and Electric Central Air Conditioners prior to EDECA, pursuant to a Board Order dated April 14, 1997 in Docket No. EC96070517. Therefore, the Board is satisfied that these services are substantially similar to the two Proposed Competitive Programs and that approval of PSE&G's request would be permissible under N.J.S.A. 48:3-58(b)(4).

The Board REJECTS the RPA's proposal that PSE&G separate these services from the utility and offer them only through an unregulated affiliate of its parent corporation. The Board FINDS that neither the final audit report in the pending competitive service audit proceeding in Docket No. EA00040325 nor the Board Order make such determination, recommendations or directives respectively.

The Board emphasizes that it maintains the statutory authority, pursuant to N.J.S.A. 48:3-58(m), to order a gas public utility or its related competitive business segment to cease the offering of a competitive service, functionally separate its competitive service offering from non-competitive business functions, structurally separate or divest itself of such services, in the event that the Board determines, after hearing, that recurring and significant violations of its rules, regulations, and/or orders have occurred. The Board Order in the Competitive Service Audit proceeding, dated February 8, 2002, accepted the Audit Report and ordered the implementation of 24 recommendations. None of these recommendations suggested that PSE&G separate competitive appliance service from the utility and offer them only through an unregulated affiliate of its parent corporation. In fact, only several of the 24 recommendations pertained to PSE&G's Appliance Service Business ("ASB") and none of these addressed PSE&G's rate.

Further, the Act allows the Board to approve a competitive service only upon a finding that the provisions of N.J.S.A. 48:3-58(d), are met. N.J.S.A. 48:3-58(d)(1) requires that:

> the provision of a competitive service by a gas public utility shall not adversely impact the ability of the gas public utility to offer its non-competitive services to customers in a safe, adequate and proper manner, and in all instances where resources are jointly deployed by the utility to provide competitive and non-competitive services and resource constraints arise, the provision of non-competitive service shall receive a higher priority…

Based upon the Board's review of the Company's filing, the Board is satisfied that the Company has taken measures to ensure that the provision of non-competitive services to the Company's customers will not be adversely affected by the provision of its Proposed Competitive Programs. On June 6, 2001, in response to one of Staff's data request, PSE&G indicated that gas leaks and emergencies are responded to within one hour and have first priority. Urgent calls such as carbon monoxide leaks are responded to within two to four hours and have second priority. Commercial inoperative appliances needed for business have a four hour response time and have third priority. In its response, PSE&G also indicated that no heat/no air conditioning and no hot water calls are responded to on a first come, first served basis and response time is based upon the time it takes to complete the job for the prior calls in this category. Although these are normally dealt with after commercial inoperative appliances, they are screened for safety related concerns under PSE&G's "escalation policy". Under the Company's "escalation policy", the caller is interviewed to determine whether the situation will affect the health of an occupant of the dwelling. If so, these calls are escalated in importance and are referred to a supervisor for reprioritizing. According to the Company, all no heat calls are treated as safety related and are reprioritized before any appliance repair work is performed. Ultimately, appliance repair is last priority on the Company's internal policy on prioritizing service calls and is responded to by appointment.

The Board is satisfied that the Company's strict compliance with its above dispatching policies will ensure that there will be no negative impact to non-competitive services. Specifically and consistent with the Company's representation, the Board DIRECTS that all no-heat calls shall be prioritized ahead of any appliance work. With this clarification, the Board is satisfied that the Company's internal policy on the prioritization of and response time to customer inquires and service calls will allow PSE&G to timely respond to emergency and safety related calls as well as other non-competitive related inquires, and to be able to effectively dispatch employees. The Competitive Services Audit examined the above prioritization and response time policy for incoming calls. As part of its findings in the Competitive Services Audit Report, which the Board adopted on February 8, 2002, PSE&G was found to be in compliance with Section 6.3c of the Standards which requires a gas or electric public utility to ensure that its offering of competitive products and/or services does not adversely impact its ability to provide safe, adequate and proper electric and/or gas public utility service. Periodic audits of PSE&G's competitive services are required by EDECA. Thus, the Board will be able to ensure that the requirements of the Act, including N.J.S.A. 48:3-58(d)(1), are met and that non-competitive utility service quality will not be adversely affected. Accordingly, the Board is satisfied and concludes that approval of PSE&G's petition would be permissible under N.J.S.A. 48:3-58(d)(1) of EDECA.[5]

With respect to PSE&G's request to offer the proposed Central Heater and Central Air Conditioning Replacement Programs for service offered within PSE&G's service territory only, the Board FINDS, based upon its review of the Company's proposal, that the Proposed Competitive Programs for service to be offered within PSE&G's service territory meet the above criteria as set forth in the Act. Based upon this finding, the Board HEREBY APPROVES the Company's proposed Central Heater Replacement and Central Air Conditioning Replacement Programs.

Further, N.J.S.A. 48:3-58(d)(2) of EDECA requires that the price that a gas public utility charges for a competitive service shall not be less than the fully allocated cost of providing such service, as determined by the Board, which cost shall include an allocation of the cost of all equipment, vehicles, labor, related fringe benefits and overheads, and administration utilized, and all other assets utilized and costs incurred, directly or indirectly, in providing such competitive service. Having reviewed the record in this matter, the Board FINDS that the Company's proposed fully allocated hourly floor rate of $152.76 appears to include the fully allocated costs of providing service under the Proposed Competitive Programs, consistent with the requirements of EDECA. The Board notes that the retail flat prices expected to be charged to customers by PSE&G in its proposed tariffs will be set to cover the fully allocated cost of providing such services, including the cost of processing and solicitation and taxes and other incremental costs and will not be subsidized by its ratepayers. The Board will maintain continuous oversight of competitive appliance service issues through periodic competitive service audits. The Audit Report did find that PSE&G treats the revenues received for competitive services offered by ASB in accordance with the Standards. Moreover, the anticipated revenues from these new programs should be treated as above the line.

Additionally, N.J.S.A. 48:3-58(k) requires the Board to adopt fair competition, affiliate relation, and accounting standards concerning the offering of competitive services, and to perform periodic independent audits to ensure compliance with said standards and on March 15, 2000, in Docket No. EX99030182, the Board issued an Order Adopting Final Interim Affiliate Relations, Fair Competition and Accounting and Related Reporting Requirements and subsequently became effective on September 11, 2000. ("Final Interim Competition Standards"). As previously indicated, consistent with EDECA, the Board adopted standards, initiated a Competitive Services Audit and recently rendered a decision adopting 24 recommendations, of which several pertain to ASB. PSE&G has confirmed, in the cover letter that accompanied its June 21, 2001 supplemental filing,

[5] As previously indicated, PSE&G stated in response to a Staff discovery request that it would be offering the Proposed Competitive Programs outside of its franchised service territory. PSE&G has not sought formal Board approval to offer these services to customers who do not reside within its franchised service territory. The Board is currently reviewing PSE&G's petition to offer its existing APSO services outside its franchised service territory. (Docket No. ET98080897) The Proposed Competitive Service Offerings are not included in that filing.

that it will comply with the recommendations included in the Competitive Services Audit and any modifications that may be ordered by the Board, upon the Board's final ruling on such Competitive Services Audit. The Audit Report concluded that competitive services offered by ASB were in accordance with Section 6.5 of the Standards which requires a gas public utility to treat the total margins above the line for ratemaking purposes and credited to ratepayers in a manner to be determined by the Board. Moreover, the Audit Report did not recommend that PSE&G separate appliance services from the utility and offer them only through an unregulated affiliate of its parent corporation.

Accordingly, the Board is satisfied and concludes that PSE&G's proposal is consistent with the above statutory provisions and HEREBY APPROVES the proposed fully allocated hourly floor rate of $152.76.

The Board HEREBY DIRECTS PSE&G to request prior approval from the Board before making any changes to the floor rates, terms and conditions under the Proposed Competitive Programs. Moreover, the Board will continue to monitor cost and expense data for these services and reserves its right to require the Company to demonstrate that the charge for any competitive service offering remains above the approved fully allocated hourly floor rate as part of the periodic audits as required by EDECA.

N.J.S.A. 48:3-58(d) also provides that the Board may require that a gas public utility file and maintain tariffs for competitive services, which tariffs shall be subject to review and approval by the Board. Since the filing and timely maintenance of tariff sheets relating to the provision of all competitive services by all utilities is in the public interest, the Board HEREBY DIRECTS PSE&G to provide final compliance tariffs for the Central Heater Replacement and Central Air Conditioning Replacement programs, which are the subject of this order, within ten (10) days of the date of its Order in this matter[6] Said tariff sheets shall contain, at a minimum, the date upon which each service offering was approved by this Board, the docket number under which said approval was made, a detailed description of the service offering including any limits of coverage, the approved floor price for each service offering and the current charge for each service offering. If any change occurs to the floor price or limits of coverage, the Company shall file revised tariff sheets thirty (30) days prior to the proposed effective date of said change and shall implement the new rates only after Board approval. The final tariff sheets should also include a list of all parts included in all of the competitive service offerings.

The Board HEREBY DIRECTS PSE&G to maintain separate detailed accounting for revenues and expenses for its appliance service programs, and continue to treat them as above the line items for ratemaking proposes, unless and until modified by the Board. The Board FURTHER DIRECTS the Company to continue to file its existing quarterly reports regarding its competitive service activities with the Board until such time as this requirement may change by subsequent Board action. These reports and accounting information will be reviewed as part of the periodic audits required by EDECA.

The Board notes that the ratemaking mechanism issue raised by the RPA to address increases in revenues for the appliance services between base rate cases, would have been more appropriately addressed in the recently completed PSE&G gas base rate case proceeding, Docket No. GR01050328. The RPA is not, however, precluded from raising this issue in any other PSE&G gas rate adjustment filing.

[6] The matter involving Public Service Electric and Gas Company's Appliance Service Program – 1999 – Docket NO. ET99040268 is pending and remains under review.

Finally, nothing herein is intended to exempt PSE&G from complying with all applicable laws and regulations with respect to the provisions of these above services, including obtaining any permits or licenses that may be required.

DATED: MARCH 22, 2002

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(SIGNED)
REGINALD JOHNSON
ACTING SECRETARY

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC & GAS COMPANY FOR APPROVAL TO IMPLEMENT CENTRAL HEATING AND CENTRAL AIR CONDITIONING REPLACEMENT PROGRAMS

Docket No. EO98030146

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